

In the United States Court of Federal Claims

No. 19-859
(Filed: 20 July 2021)

E-NUMERATE SOLUTIONS, INC. and *
E-NUMERATE, LLC, *

Plaintiffs, *

v. *

THE UNITED STATES, *

Defendant *

ORDER

On 27 April 2021, the Court entered a modified claim construction briefing schedule. *See* Order, ECF No. 54. On 19 July 2021, plaintiffs filed an unopposed motion to modify the claim construction schedule “to provide [p]laintiffs additional time to review and consider [the government’s] invalidity contentions in this matter.” *See* Pls.’ Unopposed Mot. to Amend the Scheduling Order, ECF No. 56 at 1. Plaintiffs represent the parties have met all previous claim construction deadlines set by the Court in the 27 April 2021 order. *Id.* at 1–2.

In support of their motion to modify the claim construction schedule, plaintiffs note “the [g]overnment’s invalidity contentions set forth 62 separate invalidity contentions based on alleged prior art either alone or in combination” and “the [g]overnment additionally advanced three invalidity contentions based on obviousness-type double patenting that also includes alleged prior art.” *Id.* at 2. Plaintiffs state they “require additional time to consider the multiplicity of invalidity theories advanced by the [g]overnment as well as the [g]overnment’s supplemental invalidity contentions before engaging in claim construction in this matter.” *Id.* For good cause shown, plaintiffs’ unopposed motion to modify the claim construction schedule is **GRANTED**. The Court **ADOPTS** the following modified claim construction briefing schedule.

Event	Prior Deadline	New Deadline
The government supplements its invalidity contentions	N/A	26 July 2021
Parties exchange claim terms for construction	20 July 2021	3 September 2021
Parties exchange proposed claim constructions	3 August 2021	17 September 2021

Parties disclose extrinsic evidence they may rely upon for claim construction	10 August 2021	24 September 2021
Deadline to meet and confer to narrow terms in dispute and exchange revised claim constructions	17 August 2021	1 October 2021
Plaintiffs file their opening claim construction brief	24 August 2021	8 October 2021
The government files its responsive claim construction brief	14 September 2021	29 October 2021
Plaintiffs file their reply claim construction brief	28 September 2021	12 November 2021
The government files its sur-reply claim construction brief	12 October 2021	3 December 2021
The parties submit the joint claim construction statement and propose dates for the Markman hearing in the first half of January	19 October 2021	10 December 2021
If desired, the parties may submit a joint technical tutorial to the Court	26 October 2021	17 December 2021
<i>Markman</i> hearing	To be scheduled	To be scheduled
Deadline for the government to produce technical documents for additional agencies named in the second amended complaint	30 November 2021	31 January 2022

IT IS SO ORDERED.

s/ Ryan T. Holte
 RYAN T. HOLTE
 Judge